In the Indiana Supreme Court

Charlie WHITE, In His Individual) Supreme Court Cause No.
Capacity, and Bernard PYLITT, Thomas) 49S02-1105-MI-291
WHEELER, and Gordon DURNIL, As)
Members of the INDIANA RECOUNT) Court of Appeals Cause No.
COMMISSION,) 49A02-1104-MI-350
Appellants,)
) Marion Circuit Court Cause No.
v.) 49C01-1012-MI-055881
)
INDIANA DEMOCRATIC PARTY, By)
Its Chairman, Daniel J. Parker,)
Appellee.	
Its Chairman, Daniel J. Parker,)) ()

ORDER

On May 20, 2011, the Supreme Court issued an order in the above-captioned appeal, granting transfer pursuant to Indiana Appellate Rule 56(A), denying Charlie White's motion for stay, and granting a motion filed by the Indiana Democratic Party ("IDP") to dismiss the appeal on the ground that there had been no final judgment entered. Charlie White v. Indiana Democratic Party, 946 N.E.2d 1171 (Ind. 2011), reh'g denied.

White now has filed in the Supreme Court his "Emergency Verified Motion To Transfer Jurisdiction Of Appeal Before The Marion Circuit Court" ("Emergency Verified Motion"). White alleges that after the May 20, 2011 order, the Indiana Recount Commission ("Commission") held an evidentiary hearing on the IDP's challenge to White's election as Indiana Secretary of State and, on June 28, 2011, issued findings of fact, conclusions of law, and a final decision denying the IDP's challenge. White further alleges that on July 28, 2011, the IDP filed in the Marion Circuit Court a "Petition For Judicial Review" challenging the Commission's decision. White states that the IDP filed its petition pursuant to Indiana Code Section 3-12-10-18 ("Any party to a final determination of the state recount commission concerning a nomination subject to IC 3-12-11 or election to a state office other than governor or lieutenant governor may file a petition with the Marion County circuit court for judicial review of the determination . . . ").

White asks the Supreme Court to grant transfer again under Appellate Rule 56(A), this time to assume jurisdiction over the petition for judicial review pending in the Marion Circuit Court. He requests that the IDP's petition for judicial review be heard and decided by the Supreme Court in the first instance. No response to the Emergency Verified Motion has been filed.

White's request for transfer is procedurally improper. Appellate Rule 56(A) provides that the Supreme Court may "accept jurisdiction over an appeal that would otherwise be within the jurisdiction of the Court of Appeals upon a showing that the appeal involves a substantial question of law of great public importance and that an emergency exists requiring a speedy determination." (Emphasis added.) Assuming that White accurately describes the procedural history as set out above, jurisdiction over the IDP's petition for judicial review is with the Marion Circuit Court. White does not allege that the Marion Circuit Court has entered a final judgment on that petition, and he does not seek transfer of an appeal that would otherwise be within the jurisdiction of the Court of Appeals.

Accordingly, the Supreme Court DISMISSES White's Emergency Verified Motion.

The Clerk is directed to send a copy of this order to the Hon. Louis F. Rosenberg, Judge, Marion Circuit Court; and to all counsel of record and unrepresented parties. The Clerk of this Court is further directed to post this order to the Court's website.

Done at Indianapolis, Indiana, this 12th day of September, 2011.

Randall T. Shepard

Chief Justice of Indiana

All Justices concur.